

Salisbury, North Carolina
January 3, 2012

REGULAR MEETING

PRESENT: Mayor Paul B. Woodson Jr., Presiding; Mayor Pro Tem Susan W. Kluttz, Council Members Maggie A. Blackwell, William (Pete) Kennedy, and William Brian Miller; Interim City Manager Doug Paris; City Clerk Myra B. Heard; and City Attorney F. Rivers Lawther, Jr.

ABSENT: None

Salisbury City Council met in Council Chambers in City Hall located at 217 South Main Street. The meeting was called to order by Mayor Woodson at 4:00 p.m. The invocation was given by Mayor Pro Tem Kluttz.

PLEDGE OF ALLEGIANCE

Mayor Woodson led those present in the Pledge of Allegiance to the United States flag.

RECOGNITION OF VISITORS

Mayor Woodson welcomed all visitors present.

PROCLAMATIONS

Mayor to proclaim the following observance:

DR. MARTIN LUTHER KING, JR. DAY

January 16, 2012

CONSENT AGENDA

(a) Temporary Street Closure – East Liberty Street

Close the 100 block of East Liberty Street Saturday, January 28, 2012 from 3:00 p.m. until 12:00 midnight for the annual Waterworks Visual Art Center oyster roast.

Thereupon, Mr. Miller made a **motion** to adopt the Consent Agenda as presented. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

HIGHLIGHTS AND GOALS – COMMUNITY APPEARANCE COMMISSION

Ms. Barbara Perry, Chair of the Community Appearance Commission (CAC), and Ms. Lynn Raker, staff liaison, presented the CAC Highlights and Goals.

Ms. Perry reviewed the Highlights for 2011:

- Awarded 11 Municipal Service District Incentive Grants
 - Total Grants - \$18,838
 - Total Project Amounts - \$98,788
- Awarded eight Innes Street Improvement Grants
 - Total Grants - \$28,152
 - Total Project Amounts - \$126,384
- Public Art Committee
 - Installed Rotary Club marker
 - Installed students name panels on Cotton Mills Corner Wall
 - Installed mural interpretive sign
 - Added two pieces at Rowan-Cabarrus Community College (RCCC)
 - Hosted Artist's Symposium
 - Sold sculpture (through private donations) to RCCC
- Neighborhoods and Education Committee
 - Neighborhood Leaders Alliance
 - Bi-annual meetings
 - Continued support for Housing Advocacy Commission
 - Designed and implemented BlockWork program
 - Co-sponsored Spring and Fall spruce-up with Public Services Department
 - Adopt-a-Street program
 - Rowan Helping Ministries
 - AME Zion Church
 - Eureka Masonic Lodge #4
 - J.C. Price American Legion Post 107

- Livingstone College students
 - Sister of Essence Order of Eastern Stars
- Landscape Committee
 - 15 Landscape of the Month Awards
 - 7th Annual Holiday Storefront Decorations Awards

Ms. Perry reviewed the 2012-2013 Level 1 Goals:

- Participate in a Long Street – Old Concord Road corridor study
- Partner with Downtown Salisbury Incorporated (DSI) to initiate planning and funding for major downtown streetscape improvements
- Support Salisbury Housing Authority and City efforts with West End Transformation Plan

Ms. Perry then reviewed the CAC Goals with funding requests:

- Continue the Municipal Service District Grant program
 - Public Investment 1981- 2011 \$427,000
 - Private Investment 1981- 2011 \$5,814,000 \$35,000
- Continue the Innes Street Incentive Grant program
 - Public Investment 1996- 2011 \$315,000
 - Private Investment 1996- 2011 \$4,700,000 \$35,000
- Continue Fall and Spring Spruce-up Days, Adopt a Salisbury Street Program, Landscape of the Month and other programs \$2,250
- Improve appearance, comfort and maintenance of downtown streetscape with 3-year phased purchase and installation of additional trash receptacles and benches (year 3 of 3) \$5,000
- Continue to expand public art and education with History and Art Trail, sculpture show, etc. \$20,000
- Bi-annual BlockWork program to promote neighborhood accountability block by block \$5,000

Ms. Perry discussed other key Goals for the CAC:

- Support DSI efforts to develop maintenance ordinance for commercial buildings
- Continue to raise awareness of public art opportunities
- Continue to serve as liaison for neighborhood leaders and host bi-annual neighborhood leaders meetings
- Support Salisbury Housing Advocacy Commission

Ms. Perry informed Council the CAC and Tree Board's bi-annual awards program will be held February 29, 2012, and she invited Council to attend. She thanked Council for its continued support and acknowledged staff liaisons Lynn Raker and Diana Moghrabi.

Mayor Woodson thanked Ms. Perry and the CAC for all it does for the City.

Councilmember Blackwell stated she is honored to be the Council liaison for the CAC. She noted the CAC is very effective, and she thanked Chair Barbara Perry for her hard work.

HIGHLIGHTS AND GOALS – GREENWAY COMMITTEE

Ms. Any Smith, Greenway Committee Chair, and Mr. Stephen Brown, staff liaison, presented the Greenway Committee's 2011 Highlights and 2012 Goals.

Ms. Smith reviewed the 2011 Highlights:

- Phase 2 of the Salisbury Greenway completed, and opened to the public November 1, 2011

Ms. Smith displayed photographs of Phase 2 of the Salisbury Greenway. She noted the different stages of completion in the photos and citizens enjoying the Greenway.

Ms. Smith then reviewed the Greenway Committees Goals for 2012:

- Continue the next phase of Greenway development (Kelsey Scott/Grants Creek Connector)
- Support the 15th annual 5K Run Walk for the Greenway – July 21, 2012
- Support Earth Day Exploratory in Cooperation with Overton Elementary - April 2012

Ms. Smith thanked Council for its support of the Greenway Committee.

Mayor Woodson thanked Ms. Smith and Mr. Brown for the presentation and expressed Council's gratitude for the work being done by the Greenway Committee.

HIGHLIGHTS AND GOALS – HISTORIC PRESERVATION COMMISSION

Mr. Jack Errante, Chair of the Historic Preservation Commission (HPC), and Ms. Janet Gapen, staff liaison, presented the Highlights and Goals for the Historic Preservation Commission.

Mr. Errante reviewed 2011 Certificates of Appropriateness (COA):

• Approved by Staff	86	53%
• Approved by Minor Works Committee	38	24%
• Approved by Historic Preservation Commission	33	21%
• Denied by Commission	2	1%
• Deferred (2) or Withdrawn (2)	2	1%
Total Applications	161	100%

Mr. Errante then presented the 2011 Highlights:

- Historic Preservation Master Plan:
 - Two members on Master Plan Advisory Committee
 - Final Draft Completed
- Historic Preservation Incentive Grants:
 - 13 Grants in 2011
 - \$24,250 total awarded
 - Total \$69,434 public/private investment
- Bi-Annual Newsletter:
 - Mailed to over 500 historic district property owners
 - Information on grants, historic districts, how to apply for a Certificate of Appropriateness
- Certified Local Government Program
 - Designation renewed for FY2012-2013 by State Historic Preservation Office
- Regional Training
 - "Preservation Challenges in Small Towns" Pineville, North Carolina Sponsored by Charlotte-Mecklenburg Historic Landmarks Commission
 - Historic Preservation Workshop Albemarle, North Carolina. Sponsored by Central Park North Carolina and the Rural Center
- Design Review Advisory Committee
 - Provides informal plan review and consultation regarding additions and other major works
- Participation in related civic committees and community initiative
 - Historic Preservation Master Plan Advisory Committee
 - Certificate of Appropriateness
 - Upper Façade Rehabilitation – 105 South Main Street
 - Wayfinding Signage
 - Façade Rehabilitation – 121 East Fisher Street
 - Murals – 200 South Main Street

Mr. Errante reviewed the 2012 Goals for the HPC:

- Support public and private investment in historic neighborhoods
 - Continue Historic Preservation Incentive Grant Program at the requested amount of \$30,000

- Promote historic preservation planning and implementation of adopted plans
 - Updated Historic District Guidelines at the requested amount of \$21,000 (local match)
 - Master Plan Goal
 - Neighborhood-specific sections
 - Easy reference features
 - Expand Minor Works
 - Eligible for federal grant
 - Overhaul the City's historic preservation website
 - Master Plan Goal
 - Expand content
 - Digital submission of COA applications
 - Interactive maps
- Improve historic district procedures and resources for property owners
 - Host at least one informative workshop for property owners
 - Informal
 - Interactive
 - Example: "How-to" session on improving energy efficiency in older homes
 - Attend at least one meeting of another preservation commission in the region as a training exercise for commission members and staff
 - Conduct an HPC Annual Review
 - Retrospective discussion of the year's activities
 - Review successes
 - Ways to improve and simplify procedures
- Advocated for threatened resources and preservation of community character
 - Promote and participate in transformation planning for the West End neighborhood

Mr. Errante thanked Mayor Woodson, Council, and Interim City Manager Doug Paris for supporting the HPC.

Mayor Woodson thanked Mr. Errante and Ms. Gapen for their presentation.

HIGHLIGHTS AND GOALS – PARKS AND RECREATION ADVISORY BOARD

Ms. Mary Arey, Parks and Recreation Advisory Board member, and Ms. Gail Elder White, Parks and Recreation Director, presented the Highlights and Goals for the Parks and Recreation Advisory Board.

Ms. Arey reviewed the Highlights for 2011:

- Phase 2 of the Salisbury Greenway completed and opened to the public on November 1, 2011

- Foil Tatum Grant and Park Construction
 - Matching grant from Parks and Recreation Trust Fund (PARTF) and land donation from Walter Tatum – Grand Opening November 19, 2011
- Hall Gym parking lot expansion
- Salisbury Community Park Bridge
 - Bridge installed and gravel ramps completed
 - Funded through North Carolina Trails Grant
- Scholarship program developed with Martin Luther King Grant - \$2,500
 - Total participants that have received scholarships – 13
 - Programs:
 - (1) Girl's Jr. Bobcats – 8 weeks
 - (9) Summer Camp – 59 weeks
 - (1) Art Music Movement Camp – 1 week
 - (1) Scrapbook Camp – 1 week
 - (1) Card Making Class – 1 week
- Reduction in Force – 25% Cemetery, Landscape, and Hurley Park joined our team
- National Gold Medal Finalist
- Expanded Jersey City Park and installed new play structure
- Facility and Park Renovations FY2010-2011
 - Miller Center – new gym flooring
 - Civic Center – refinished stage floor/painted railings on porch
 - Fairview Heights Park – new play structure
 - Town Creek Park – installed new play structure and outdoor fitness equipment
 - Sports Complex – turf improvements
 - Installed five new kiosks throughout the park system
 - Metal garage structure at 1402 South Main Street Landscape Facility

Ms. Arey then reviewed the 2012 Priority Level 1 Goals:

- Maintain staffing levels and support the increase in part-time staff for programming and maintenance (\$37,000)
- Provide financial support of the five year Parks and Recreation Capital Improvement plan
 - Renovate Lincoln Park according to the Master Plan
 - Renovations and additions to the existing Civic Center (\$1,500,000 for gym addition) (\$200,000 for park development)
 - Begin Town Creek Park development
 - Phase 2 development of the Jaycee Optimist Sports Complex Park (\$450,000)
 - Provide full annual allocation of funds for renovation of existing parks/facilities (\$100,000)

Ms. Arey noted the Priority Level 2 Goals for 2012:

- Neighborhood park land acquisition, east of I-85 - \$100,000
- Design a Hall of Fame Building/Education Center at the Salisbury Community Park and Athletic Complex - \$25,000

Ms. Arey then reviewed the 2012 Supporting Goals:

- Support continued design and development of the Salisbury Greenway
- Support neighborhood problem solving, through programs and park renovations in Jersey City and North Main Street and West End areas
- Support the Hurley Park Board and park development
- Support the Tree Board and Downtown Streetscape Program

Mayor Woodson thanked Ms. Arey for the presentation and members of the Parks and Recreation Advisory Board for their work for the community.

ROWAN COUNTY BOARD OF COMMISSIONERS MEETING

Mayor Woodson noted several members of Council attended the Rowan County Board of Commissioners meeting which began earlier today at 3:00 p.m. He noted the Commissioners were receiving public comment, and many people spoke in favor of a Downtown Central School Office. He thanked everyone who attended the Commissioners meeting and spoke in favor of the Downtown facility. He noted Community Planning Services Director Joe Morris remained at the County Commissioners meeting, and perhaps he can update Council if the meeting concludes before Council's. Mayor Woodson stated he hopes the County Commissioners will vote in favor of the downtown location because he thinks it would be good for the City, School Board and Rowan County.

SPECIAL USE PERMIT – NASHVILLE NIGHTS

SUP-05-10 and SUP-07-10 Nashville Nights, 125-127 East Innes Street

(a) Swearing In

Mayor Woodson indicated everyone who wanted to speak at the public hearing must be sworn in, and he asked those who wanted to speak to come forward. Mayor Woodson administered the oath to the following:

Mr. David Phillips
Ms. Karen Littleton
Mr. Dick Palmore

(b) Ex Parte Disclosure

Mayor Woodson asked Council members if any member had any discussions with the participants in the hearing. There were no ex parte disclosures.

(c) Mayor Woodson convened a public hearing, after due notice thereof, to receive testimony regarding SUP-05-10 and SUP-07-10.

Zoning Administrator David Phillips indicated the Special Use Permit (SUP) request is for an amendment to a previously approved SUP. He stated there are three General Standards Council must use for the basis of its Findings of Fact. He noted there is a fourth additional Standard for this use that states the use cannot be within 500 feet of a property that contains a school. He referred to the three General Standards and indicated they will be addressed in the presentation in regards to what has been presented from the applicant. The three General Standards are:

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed

Mr. Phillips displayed an aerial map and noted the site's location in the 100 block of East Innes Street. He also displayed photographs of the building in question, and he noted the owners have gone through the Historic Preservation Commission to get approval for changes to the façade.

Mr. Phillips stated the request is for an amendment to an SUP issued for 127 East Innes Street. He indicated with this SUP the applicant was allowed to use the upper and lower floors of the building space. He stated after the approval was granted, the owners found they would not be allowed to use the upper floor because of Fire Code issues so they requested a second SUP for 125 East Innes Street. He noted there is an SUP for both levels of 127 East Innes Street and an SUP for the lower level of 125 East Innes Street. Mr. Phillips indicated the SUP for 125 East Innes Street was tabled by City Council pending plan review by the City Fire Marshall to make sure the facility would be adequate in regards to safety.

Mr. Phillips explained the request is to rescind the tabled SUP for 125 East Innes Street. He stated with the participation of the developer and property owner, Salisbury-Rowan Utilities has installed a new waterline behind a portion of the 100 block of East Innes Street, and this has provided better access to the waterlines. He noted the three spaces now have sprinklers installed which allow the owners to occupy the upper level of 127 East Innes Street.

Mr. Phillips indicated the SUP for 127 East Innes Street, SUP-05-10, was approved with a list of conditions and guidelines that was submitted by the applicant. He stated the same guidelines are still being imposed, and by rescinding the SUP for 125 East Innes Street and amending the SUP for 127 East Innes Street, it would put all three spaces under one SUP with the same guidelines and rules that have been presented. He added this will clean up the SUP so there are not two separate standards for this location.

Mr. Phillips stated the nightclub is currently under construction, and it will be required to meet any Alcoholic Beverage Control (ABC) or Alcohol Law Enforcement (ALE) regulations. He added the use will also have to meet any other City codes or Rowan County building codes. He noted the building has been changed, but all of the changes have been under the guidelines of the Historic Preservation Commission (HPC). He indicated the owner has applied to the HPC for a façade grant.

Mr. Phillips stated Council's previous concerns regarded the rules and guidelines that were subject to the use. He indicated the rules and guidelines have been attached to the SUP, and noted Council has a copy of the rules that were approved by Council. He stated there is no school within 500 feet of the establishment so the use meets the fourth additional General Standard.

Mr. Phillips reiterated the request is amend SUP-05-10 to include all three spaces, the upper and lower level of 127 East Innes Street and the lower level of 125 East Innes Street, and to rescind the tabled SUP for the lower level of 125 East Innes Street. He stated since the rules and guidelines have been established as part of the original SUP those would still be attached to the SUP.

Councilmember Miller clarified what Council is being requested to do is rescind the SUP for 125 East Innes Street and consolidate it with the prior SUP for 127 East Innes Street. Mr. Phillips responded this is correct. Mr. Miller stated no changes to the requirements have been requested. Mr. Phillips agreed, and stated none in regards to what has already been approved. He noted the owners may have comments they want to address with City Council. Mr. Miller stated what came through the Planning Board were the same conditions that existed for the prior SUP approval. Mr. Phillips responded the only request made at the Planning Board was for Council to evaluate the rules and guidelines to make sure it still wants to impose them.

Ms. Karen Littleton 316 North Deerfield Circle, and Mr. Dick Palmore, 1011 Mocksville Avenue addressed Council. Ms. Littleton stated they were originally approved by City Council for both floors at 127 East Innes Street, and they applied for a permit at 125 East Innes Street. She stated at that time the application was tabled pending approval from the Fire Marshall, which was received in September. She stated 125 and 127 East Innes Street will now be run as one entity. She indicated at the time of application for both properties they presented Council with their membership and security guidelines. She noted the membership guidelines remain the same as originally presented, but upon further thought they ask Council to delete the use of metal detectors from the security guidelines. Ms. Littleton stated after a year of closely following Police reported problems at the alcohol establishments in Salisbury, she knows of only one report of an incident involving a weapon. She added this was an incident without injury. She indicated none of the establishments have metal detectors or are required to have them. She assured Council that they have a large investment of time, money, and passion in Nashville Nights not to take steps to keep the customers and employees safe. She stated they do not see the need for detectors at this time. Ms. Littleton commented hands-on security and awareness are great forms of deterring problems. She noted it has been pointed out several times that City Council has the right to bring them back or revoke the permit if uncorrected problems arise. She

stated in the rules of conduct the statement that patrons may be subject to wand has been left in. She added this is in case they decided to do this, or see a need for it, in the future. Ms. Littleton then presented the rules of conduct to Council.

Mr. Palmore stated he is in agreement with Ms. Littleton.

Ms. Littleton commented she wanted Council to see the option to wand is being left in the rules, but she does not feel it is necessary at this time. She stated they have followed this closely and if there is a problem, they have too much invested they do not want to ruin. She noted she does not think metal detectors will deter everything because they will have to be vigilant, and she thinks people are the best deterrent for this.

Mr. Palmore stated they have spoken to the Police Department about this, and Ms. Littleton has compiled their reports. He stated no place in Rowan County is required to have metal detectors.

There being no one else present to provide testimony, Mayor Woodson closed the public hearing.

Councilmember Blackwell stated she thinks they have done their due diligence and she is prepared to support the request.

Mayor Pro Tem Kluttz asked to hear from the Police Chief regarding removing the requirement for metal detectors.

Mayor Woodson then administered the oath to Police Chief Rory Collins and Captain Melonie Thompson.

Chief Collins indicated Capt. Thompson has been involved in discussions with Ms. Littleton and Mr. Palmore regarding the security issue.

Capt. Thompson stated she looked into different venues and none of them require any metal detection. She indicated some of the venues use a wand at the door, but none have fixed metal detectors.

Chief Collins stated he concurs with Capt. Thompson that there are no metal detectors in use. He indicated he has seen clubs where wandering takes place, but it has not been a requirement up to this point; however, it has been a tremendous benefit. He stated it is difficult to know if someone is holding a gun until they decide to use it, and it is difficult to predict if someone will come into an establishment with one. He noted, in his opinion, a detecting device is a deterrent, a preventative tool, and a safety measure. Chief Collins stated he is not aware of any incidents where an establishment not having metal detector has caused a problem thus far. He indicated he is relieved knowing that if a concern begins, it can be brought back to Council. He stated based on discussions the Police Department has had with the owners of the establishment and the assurances in guidelines to ensure safety, he has no concerns. He requested that if metal detectors are not in place, the owners closely monitor the people coming into the establishment.

Councilmember Kennedy asked if Chief Collins is stating other clubs use wands to wand the patrons. Chief Collins responded that in the past some have, but he is unsure if they are still doing so. Capt. Thompson indicated the clubs are using wands. She stated she has worked in these clubs and atmosphere for many years, and to her, hands-on, physically touching people, is the best means. She added wands do not catch everything, but physically touching people is the best method. Chief Collins stated the owners do intend to pat down people coming into the club, and he is very comfortable with this.

Mayor Woodson clarified that the condition for the wand can be removed. Mr. Phillips stated Council can amend the requirements to exclude that condition from the guidelines.

Councilmember Miller asked Planning and Development Services Manager Preston Mitchell to come forward.

Mayor Woodson then administered the oath to Mr. Mitchell.

Mr. Miller indicated the conditions that are in place now are found on page 2 of the summary document he received. He referred to a statement in the document, "amending the existing SUP to include 125 East Innes Street and the previously approved rules and guidelines of the establishment will be enforced," and stated it seems very vague and uncertain. He stated it does not seem the condition is strong enough that it could be enforced because Nashville Nights could amend its rules at any time since it does not state when it was approved, or who approved them.

Mr. Mitchell stated the three bulleted conditions on the form submitted to Council are suggested conditions and not the conditions in place today. He noted the conditions in place today are entitled, "Membership Requirements for Members and Staff of Nashville Nights." Mr. Mitchell stated the owners of Nashville Nights would not be able to change these rules without amending their SUP. He added this is what the owners are requesting as a part of today's request. He explained the owners are requesting to revise their membership guidelines.

Mr. Miller noted it appears the document Ms. Littleton provided to Council is the same as the adopted rules included in the information packet form staff. Mr. Mitchell stated he has not seen the document handed out by Ms. Littleton, and noted it probably excludes the metal detection device. Mr. Miller indicated both documents indicate a wand may be used, and he clarified the owners have right to use the wand but are not required to do so.

Mayor Woodson commented it appears the documents are the same. He added the document is exactly the same as read by Mr. Kennedy last year and does not refer to a metal detector. Mr. Phillips commented staff has discussed wanding, but has never discussed a metal detector.

Mr. Mitchell stated what the owners will be held to is the document provided by Mr. Phillips.

Mr. Miller moved to find the following Findings of Fact:

- A. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit as evidenced by the following testimony:
 - The site must meet all applicable regulations of the City of Salisbury and Rowan County
 - The applicant must meet all North Carolina ABC and ALE laws and regulations
- B. The proposal as submitted and approved will be visually and functionally compatible to the surrounding area as evidenced by the following testimony:
 - The use will be located in an existing mixed-use downtown building that is visually and functionally compatible to the surrounding area
 - Any improvements to downtown building facades are regulated by the Historic Guidelines of the Historic Preservation Commission
- C. The public health, safety and welfare will be assured and the purposed development will not substantially injure the value of adjoining property and associated uses if located where purposed as evidenced by the following testimony:
 - The applicant is fully aware of issues related with alcohol consumption and that the public health, safety and welfare will be assured by establishing the Membership Requirements for Members and Staff of Nashville Nights, required designated drivers, limiting live entertainment to Fridays, Saturdays, and special event nights, implementation of a membership fee, and careful monitoring of patrons
 - No evidence has been submitted by a qualified, licensed property appraiser indicating that this, or other uses with alcohol sales, has been injurious to surrounding property values
- D. The proposed establishment is not located within 500 feet of any lot containing a school.

Thereupon, Mr. Miller made a **motion** that the suggested findings support the General Standards as required by the Salisbury Land Development Ordinance. Ms. Blackwell seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

Thereupon, Mr. Miller made a **motion** that Council amend, with conditions, Special Use Permit, SUP-05-10, allowing for a nightclub/bar use at 125-127 East Innes Street, Salisbury, North Carolina based on all the general standards of the Salisbury Land Development Ordinance having been met. The conditions are as follows:

- Withdraw the tabled Special Use Permit SUP-07-10 for 125 East Innes Street
- Amend the existing, approved Special Use Permit SUP-05-10 for 127 East Innes Street to include the lower building space of 125 East Innes Street

- The Council requires the operator to abide by the rules and guidelines established in their membership document dated January 3, 2012

Ms. Blackwell seconded the motion. Mr. Miller commented he is more concerned about a person being struck by a car while crossing Innes Street than he is about someone bringing in a weapon. He asked the owners to do their best to keep patrons safe while crossing the street. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

SPECIAL USE PERMIT – A LITTLE SUMTHIN SUMTHIN

SUP-02-11 A Little Sumthin Sumthin, 117 West Innes Street

(a) Swearing In

Mayor Woodson indicated anyone who wished to speak for or against this item must be sworn in, and he asked those who would like to speak to come forward. Mayor Woodson administered the oath to the following:

Mr. David Phillips
Ms. Debbie Evans

(b) Ex Parte Disclosure

Mayor Woodson asked Council members if any member had any discussions with the owners of the business. Councilmember Blackwell stated Ms. Evans called her prior to the case going to the Planning Board, and they discussed process. She stated she has no vested interest but they did discuss process. There were no other ex parte disclosures.

(c) Mayor Woodson convened a public hearing, after due notice thereof, to receive testimony regarding SUP-02-11.

Zoning Administrator David Phillips stated the request is for a Special Use Permit (SUP) for 117 West Innes Street. He indicated the same General Standards apply for this case as in the previous case, along with the fourth additional standard regarding the proximity of the business to a school.

Mr. Phillips reviewed an aerial map and pointed out the location of the building in the 100 block of West Innes Street. He also displayed photographs of the building.

Mr. Phillips indicated the request is to allow the applicant to have on-site consumption of alcohol. He stated this is not necessarily selling alcohol like a bar, but based on the City's definition this use falls under a bar/tavern even though it is not being used as that. He noted the business is a boutique, and the owner would like to use it for poetry readings and other special events, such as music or art. He stated the owner would like to be able to serve wine or beer while enjoying this part of the store. He commented that even though it does not seem like it, the City is required to issue an SUP, even for this type of use.

Mr. Phillips stated this establishment will have to abide by any rules of the City and Rowan County, as well as any Alcoholic Beverage Control (ABC) and Alcohol Law Enforcement (ALE) rules and regulations regarding the alcohol. He noted the building is within a local Historic District so any changes to the building will have to go through the guidelines and requirements of the Historic Preservation Commission. He pointed out there are no plans at this time for changes to the exterior.

Mr. Phillips indicated based on the comments made at the Planning Board, most of the events will take place late Friday evenings. He noted the business will have a membership fee, and the owner has stated patrons who are served at the establishment will be monitored. He stated there are no schools within 500 feet of the establishment.

Mr. Phillips stated this case went to the Planning Board where there was little discussion, and the Planning Board made a favorable recommendation to Council.

Councilmember Kennedy noted Mr. Phillips stated the events will be limited to Fridays, and he asked what would happen if the owner wanted to hold events on other nights of the week. Mr. Phillips responded Council could go ahead and allow the owner to be permitted for other special events, or on a case by case basis, by making this a condition. He stated the owner may state during her presentation that the events are limited to Friday evenings.

Ms. Debbie Evans, 629 West Council Street, stated she has been operating her boutique at this location since February 2010. She noted she has been privileged to work with many local artists, many of whom have had little or no artistic platform. She stated art, music and all form of written word have become natural extensions of her retail establishment. She added this has led to the creation of her literary and arts corner located in the rear portion of the boutique. She stated this is where one can find artwork, books and music created by local residents. Ms. Evans noted requests for live music and spoken word poetry prompted the use of this space as a platform for the creativity that has found its way to her front door. She stated what began as monthly offers of live entertainment has now developed into weekly opportunities to showcase local talent in a mature, adult setting. She indicated she had been doing only Fridays, and as it continues to grow and develop a mature offering, she would like to be able to do Fridays and Saturdays, as well as special events as they come about. Ms. Evans stated the opportunity to further refine and complete this offer with adult libations of wine and beer would be a privilege not taken lightly. She noted she seeks to partner with local wineries and distributors to keep the dollars in the community, while introducing these products to an already eager audience of responsible patrons. She indicated her atmosphere is a predominately 35 and older crowd which will lend to more mature and responsible drinking. She reiterated this is a privilege that will not be taken lightly.

There being no one else present to provide testimony, Mayor Woodson closed the public hearing.

Mayor Pro Tem Kluttz referred to Mr. Kennedy's question of limiting this to Friday nights. She asked Mr. Kennedy if he was suggesting the requirement be dropped if Ms. Evans

wants to expand so she does not have to return to Council. Mr. Kennedy indicated in Ms. Evans testimony she stated she might want to expand to Saturdays or some other times, and if she decides to do this it will have to come back to Council.

Councilmember Miller commented he did not think Council should get into that level of regulation.

Councilmember Blackwell suggested striking the word "Fridays" but maintain the hours of 8:00 p.m. until 1:00 a.m.

Mayor Woodson stated it did not look like the shop would hold that many people, and there would not be 300 to 400 people inside. Council agreed to strike the word "Fridays."

Ms. Blackwell moved to find the following Findings of Fact:

- A. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit as evidenced by the following testimony:
 - The site must meet all applicable regulations of the City of Salisbury and Rowan County
 - The applicant must meet all North Carolina ABC and ALE laws and regulations
- B. The proposal as submitted and approved will be visually and functionally compatible to the surrounding area as evidenced by the following testimony:
 - The use will be located in an existing mixed-use downtown building that is visually and functionally compatible to the surrounding area
 - Any improvements to downtown building facades are regulated by the Historic Guidelines of the Historic Preservation Commission
- C. The public health, safety and welfare will be assured and the purposed development will not substantially injure the value of adjoining property and associated uses if located where purposed as evidenced by the following testimony:
 - The applicant is fully aware of issues related with alcohol consumption and that the public health, safety and welfare will be assured by limiting events to between 8:00 p.m. and 1:00 a.m., implementation of a membership fee, and careful monitoring of patrons
 - No evidence has been submitted by a qualified, licensed property appraiser indicating that this, or other uses with alcohol sales, has been injurious to surrounding property values
- D. The proposed establishment is not located within 500 feet of any lot containing a school.

Thereupon, Ms. Blackwell made a **motion** that the suggested findings support the general standards as required by the Salisbury Land Development Ordinance. Ms. Kluttz seconded the motion. Messrs. Kennedy, Miller, Woodson, and Meses. Blackwell and Kluttz voted AYE. (5-0)

Thereupon, Ms. Blackwell made a **motion** that Council issue Special Use Permit SUP-02-11 for a bar use allowing the sale and consumption of alcoholic beverages at 117 West Innes Street, Salisbury, North Carolina based on all General Standards of the Salisbury Land Development Ordinance having been met. Ms. Kluttz seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

Mr. Phillips asked to clarify the deletion of "Fridays" from the Findings, and asked if this is amending the Findings or if Council wants to make this a condition.

Mayor Woodson commented it appears that if the Findings are amended to delete "Fridays" it would be opened for any night. Council agreed it was amending the Findings of Fact.

Planning and Community Development Services Manager Preston Mitchell stated what Council removed was language from its Findings, and the way the language reads now it indicates Ms. Evans can operate at any time on any day.

Ms. Blackwell asked if Council should make an overlay condition to limit the hours from 8:00 p.m. until 1:00 a.m.

Thereupon, Ms. Blackwell made a **motion** that Council apply a condition to Special Use Permit SUP-03-11 regulating hours of alcoholic consumption from 8:00 p.m. until 1:00 a.m. Ms. Kluttz seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

SPECIAL USE PERMIT – STELIA

SUP-03-11 Stelia, 118 North Main Street

(a) **Swearing In**

Mayor Woodson indicated anyone who would like to speak in favor or opposed to this case must be sworn in, and he asked those who wished to speak to come forward. Mayor Woodson administered the oath to the following:

Mr. David Phillips
Mr. Preston Mitchell
Mr. Josh Wainwright

(b) **Ex Parte Disclosure**

Mayor Woodson asked Council members if any member had any discussions with the petitioners. There were no ex parte disclosures.

(c) Mayor Woodson convened a public hearing, after due notice thereof, to receive testimony regarding SUP-03-11

Zoning Administrator David Phillips stated the same three General Standards, and fourth additional Standard, apply to this case that were discussed in the previous cases. He reviewed an aerial map of the site which is the Washington Building located on North Main Street. He also displayed photographs of the building and stated it was an existing restaurant and bar. He indicated the establishment has closed, and the petitioners would like to reopen it as a private bar with the intentions of re-establishing the restaurant at a later time. He then displayed photographs of the interior of the current establishment.

Mr. Phillips stated the request is for a private bar use, which is closely in-line with its prior use, although there is not a restaurant associated with it. He explained with the use being a stand-alone, private nightclub/bar it requires a Special Use Permit (SUP).

Mr. Phillips indicated the establishment will be required to meet all City and Rowan County regulations. He added it will also be required to meet all Alcoholic Beverage Control (ABC) permits and Alcoholic Law Enforcement (ALE) requirements. He noted anyone who serves alcohol, either through retail or a bar, must have staff sign a form for the owner to submit to Raleigh.

Mr. Phillips pointed out the building is located downtown in a local Historic District, and the front façade has already been renovated under the guidelines of the Historic Preservation Commission (HPC). He stated the building is mixed-use with one vacant tenant space. He noted that based on the evidence presented at the Planning Board, it will be for patrons 21 or older. He indicated the owner plans to have a strict standard of conduct to include a dress code and security. He added consumption will be done inside the establishment.

Mr. Phillips stated there is no school within 500 feet of the establishment. He indicated staff received a telephone call from a citizen who owns property on West Council Street, but the citizen did not have any concerns and just wanted information about the type of establishment.

Mr. Phillips noted this case went to the Planning Board, and it gave a favorable recommendation to City Council.

Mayor Woodson referred to a statement that only patrons 21 or older will be allowed to enter, and he asked if this means no one can enter the premise until they are 21 years old. Mr. Phillips stated this is something that will need to be addressed with the applicant regarding the establishment's standards.

Planning and Community Development Manager Preston Mitchell stated the suggested Findings of Fact are based on information given by the applicant. He noted the applicant stated only people over the age of 21 would be allowed to enter, and Council will be making a Finding based on this statement by the applicant. He indicated if Council agrees with this statement and wants to add this as a condition, then Council can add the condition as part of the approval. He stated if Council only wants to accept that the applicant made his statement on record as a Finding it could make the Finding, but the condition would be part of the approval.

Mayor Woodson noted he only brought this up to keep from creating a problem that would cause the applicant to come back to Council.

Councilmember Blackwell asked Mr. Mitchell about Council's Findings for Nashville Nights (deliberated by Council earlier in the meeting) and if a condition was applied for its hours. Mr. Mitchell responded the Nashville Nights requirements previously approved by Council contained hours of operation. He noted Council replaced those guidelines with the document dated January 3, 2012, which appeared to be identical to the ones currently in effect. He stated if the documents were identical, the hours of operation were included.

Mayor Woodson pointed out for Nashville Nights each member must be 21 years of age. He noted they are not restricting those under 21 from entering, but they must be 21 to be a member.

Mr. Josh Wainwright, 2708 Mooresville Road, stated he is the General Manager of what is currently Stelia and will eventually become another establishment. He explained the reason the establishment is going from a restaurant/tavern to strictly a bar is because when the lease was signed in November, the Fire Marshall inspected the property. Mr. Wainwright stated the current kitchen is not up to Code and will require the installation of gas lines and hoods, and they are working with Hap's Grill to determine how the venting will be done. He noted for the last four years Stelia has been open as an upscale lounge, and to capitalize on that momentum he wants to open as a bar until the kitchen renovations are complete. He stated at that time Stelia will close for a short time and reopen under a new name. He noted he has reached many obstacles along the way and instead of waiting until the kitchen is finished, he would like to open the bar and then open the full restaurant when the kitchen is finished.

Mayor Woodson asked Mr. Wainwright if he is fine with nobody under 21 being allowed in. Mr. Wainwright responded he is. Mr. Wainwright pointed out the ABC and ALE requirements are very strict in regards to membership. He stated the members would need to be 21, but if someone under 21 is brought in as a guest there will be security on-hand checking identification. He asked if this means no one is allowed into the building who is not 21, or if it means only those 21 or older are allowed to be members. He noted the clientele being catered to are people aged 30 to 50.

Councilmember Miller noted the statement on Council's suggested Findings of Fact regarding the age limit is just repeating what the petitioner has stated he intends to do. He stated the ALE and ABC regulations require that they do not serve to anyone under 21, and he does not think Council has to add extra layers since this is part of the ABC and ALE role. He commented the differences between conditions and Findings could be made clearer for Council. He added as he understands it, the Findings are the things the petitioner has stated will be the existing conditions of the site. He noted he does not see a need for Council to regulate the age of those entering the establishment because if they violate ABC or ALE laws they will have to answer for that.

Mr. Miller moved to find the following Findings of Fact:

- A. The use meets all required principles and specifications of the Ordinance and any adopted plans and is in harmony with the general purpose and intent and preserves its spirit as evidenced by the following testimony:
 - The site must meet all applicable regulations of the City of Salisbury and Rowan County
 - The applicant must meet all North Carolina ABC and ALE laws and regulations
- B. The proposal as submitted and approved will be visually and functionally compatible to the surrounding area as evidenced by the following testimony:
 - The use will be located in an existing mixed-use building in the downtown that is visually and functionally compatible to the surrounding area and was previously used for food and alcohol consumption
 - Any improvements to downtown building facades are regulated by the Historic Guidelines of the Historic Preservation Commission
- C. The public health, safety and welfare will be assured and the purposed development will not substantially injure the value of adjoining property and associated uses if located where purposed as evidenced by the following testimony:
 - A strict standard of conduct will be enforced, including but not limited to, a dress code, on-premise security and the consumption of alcohol only being permitted inside the establishment
 - The applicant is fully aware of issues related with alcohol consumption and that the public health, safety and welfare will be assured by limiting hours of operation from 5 p.m. until midnight Thursday through Saturday, implementation of a membership fee, and careful monitoring of patrons
 - No evidence has been submitted by a qualified, licensed property appraiser indicating that this, or other uses with alcohol sales, has been injurious to surrounding property values
- D. The proposed establishment is not located within 500 feet of any lot containing a school.

Thereupon, Mr. Miller made a **motion** that the suggested findings support the general standards as required by the Salisbury Land Development Ordinance. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Klutz voted AYE. (5-0)

Thereupon, Mr. Miller made a **motion** that Council issue Special Use Permit SUP-03-11 allowing for a private club/bar use at 118 North Main Street, Salisbury, North Carolina based on all general standards of the Salisbury Land Development Ordinance having been met. Mr. Kennedy seconded the motion. Ms. Blackwell offered an amendment that the hours of operation be limited from 5:00 p.m. until 12:00 Midnight, Thursday through Saturday. Mr. Miller accepted to the amendment. Messrs. Kennedy, Miller, Woodson, and Ms. Blackwell and Klutz voted AYE. (5-0)

PARKING IN THE 100 BLOCK OF WEST COUNCIL STREET

Traffic Engineer Wendy Brindle addressed Council regarding parking in the 100 Block of West Council Street. She explained the Customer Service Department moved from the City Office Building (COB) located at 132 North Main Street to the new Customer Service Center located at 1415 Martin Luther King Jr. Avenue. She noted there are three parking spaces at COB that were reserved for customer parking and City utility vehicles which are no longer needed. She indicated the Downtown Salisbury Incorporated parking committee and City staff recommend two of the parking spaces be designated two-hour parking, and one space be designated as a 15-minute loading zone.

Thereupon, Mr. Kennedy made a **motion** to adopt an Ordinance amending section 13-366, Article X, Chapter 13, of the Code of the City of Salisbury, relating to loading zones. Ms. Kluttz seconded the motion. Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voted AYE. (5-0)

ORDINANCE AMENDING SECTION 13-366, ARTICLE X, CHAPTER 13, OF THE CODE OF THE CITY OF SALSIBURY, RELATING TO LOADING ZONES.

(The above Ordinance is recorded in full in Ordinance Book No. 23 at Pages No. 1, and is known as Ordinance 2012-01.)

BOARDS AND COMMISSIONS

Planning Board

Upon a motion by Mr. Kennedy, seconded by Mr. Miller and with Messrs. Kennedy, Miller, Woodson, and Mses. Blackwell and Kluttz voting AYE, the following appointment was made to fill an expired term on the Planning Board.

Mr. David Post

Term Expires 3/31/14

INTERIM CITY MANAGER'S COMMENTS

(a) Rowan County Commissioners Meeting

Interim City Manager Doug Paris stated earlier today he, along with members of City Council and Community Planning Services Director Joe Morris, attended the Rowan County Commissioners Meeting. He noted there was a full house present in support of the Downtown Central School Office, but the item was not discussed until after the City representatives had to leave to attend the City Council meeting. He stated Mr. Morris stayed for the remainder of the meeting, and Mr. Paris asked him to update Council regarding the Commissioners' discussion on the Downtown Central School Office.

Mr. Morris stated many citizens spoke in favor of the Downtown Central School Office but others had questions and concerns regarding various aspects of the project. He noted the Commissioners asked Mr. Gene Miller, Rowan-Salisbury School System Assistant Superintendent, questions about the financial plan for the project. He pointed out there was discussion about the downtown crime rate and other options for the development of the Central Office Building. He stated there was consensus among the Commissioners regarding the need for a Central Office Building, and discussion about the statutory authority of the Commissioners to participate in the location decision.

Mr. Morris explained the County Commission did not take any official action, but asked the School Board to consider other sites, including the North Ellis Street site and the Isenberg School property. He stated Commissioners asked the County Finance Director to review different strategies for debt service reduction in the event the County decided to finance the project. He noted a work session was planned for Wednesday January 25, 2012 at 3:00 p.m.

Councilmember Blackwell stated she appreciates the Commissioners waving the 15-minute limit for public comment to allow the large group in attendance the opportunity to speak.

Mayor Woodson agreed with Ms. Blackwell and thanked all the attendees who spoke at the County Commissioners meeting. He asked Mr. Morris his opinion of the meeting. Mr. Morris stated the meeting went very well, and he was pleased to hear the Commissioners agree on the need for a Central Office Building. He noted there was a lot of conversation among residents of the City and County regarding working together to support public education.

Councilmember Miller stated there has been a lot of discussion regarding City and County relations. He indicated the relationship will not improve without regular discussions to build trust. He noted the many challenges facing elected officials in Rowan County, and he pointed out elected officials must rise above the fray and find common ground. He explained the City and County must work together to support public education and have regular opportunities for conversation.

Ms. Blackwell agreed wholeheartedly with Mr. Miller. She noted she had spoken to Mayor Woodson about resuming the quarterly luncheons with County Commissioners to help facilitate discussions among the two boards. She asked Council's opinion regarding a lunch invitation to County Commissioners in an effort to build dialogue and trust.

Mayor Pro Tem Kluttz stated in the past Council invited the Board of Commissioners to lunch, but the Commissioners felt it was not necessary. She noted there are now new Commissioners on the Board, and Council should invite them in the hope they will accept the invitation.

Mayor Woodson agreed and suggested scheduling a meeting in March following Council's retreat.

Ms. Kluttz suggested Mayor Woodson formally invite Chairman Chad Mitchell to publically start the process.

Mayor Woodson stated he will make contact, and if the Commissioners are in agreement he will try to select a date and report back to Council.

MAYOR'S ANNOUNCEMENTS

(a) **Mt. Zion Humanitarian Awards**

Mayor Woodson announced Mt. Zion Missionary Baptist Church will host the annual Humanitarian Awards Sunday, January 15, 2012 at 3:00 p.m. The Awards will be held at Mt. Zion Missionary Baptist Church located at 1920 Shirley Avenue.

(b) **Dr. Martin Luther King, Jr. Breakfast**

Mayor Woodson announced the Salisbury-Rowan Human Relations Council will host the Dr. Martin Luther King, Jr. Breakfast, Monday, January 16, 2012 at 7:30 a.m. The Breakfast will be held at the J. F. Hurley YMCA, 828 Jake Alexander Boulevard. Tickets are \$8.00 each. To purchase tickets or for additional information please call 704-638-2168 or 704-638-5217.

(c) **Dr. Martin Luther King, Jr. – Freedman Cemetery**

Mayor Woodson announced following the Dr. Martin Luther King, Jr. Breakfast, a procession will travel to the Freedman's Cemetery located at the corner of Liberty Street and North Church Street, for a ceremony at 10:00 a.m., led by Soldiers Memorial AME Zion Church.

(d) **Dr. Martin Luther King, Jr. Activities Parade and Activities**

Mayor Woodson announced the Dr. Martin Luther King, Jr. Parade will be held Monday, January 16, 2012. The parade will begin at 11:00 a.m. at the Freedman's Cemetery, 220 North Church Street and will end at the Salisbury Civic Center, 315 Dr. Martin Luther King, Jr. Avenue, where activities celebrating Dr. King will be held from 12:00 p.m. until 4:30 p.m.

(e) **Housing Advocacy Commission**


Mayor Woodson announced the City of Salisbury is accepting applications for the Housing Advocacy Commission. He asked those who are interested in better housing to apply.

(f) **Councilmember Blackwell's Birthday**

Mayor Woodson indicated today is Councilmember Blackwell's birthday, and he wished her a happy birthday.

ADJOURNMENT

Motion to adjourn the meeting was made by Ms. Kluttz, seconded by Mr. Miller. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 5:57 p.m.


Paul B. Woodson, Jr., Mayor


Myra B. Heard, City Clerk